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August 26, 2024

Via CM/ECF

Hon. Loretta A. Preska
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Petersen Energía Inversora, S.A.U. v. Argentine Republic*, No. 15-cv-02739; *Eton Park Capital Management, L.P. v. Argentine Republic*, No. 16-cv-8569

Your Honor:

In accordance with the Court's August 20, 2024, scheduling order (Dkt. No. 634), Plaintiffs submit their proposed custodians and search terms for the Republic's electronically stored information ("ESI") searches. Plaintiffs' proposal as transmitted to the Republic is attached as Exhibit A to the Declaration of Laura Harris. The Parties have reached agreement to search the e-mail of the following custodians for BCRA-related communications: (1) Raphael Brigo; (2) Susana Casillas; (3) Martin Di Bella; (4) Jorge Domper; (5) Carlos Guberman; (6) Raul Rigo; and (7) Eduardo Setti. The Parties also agree to search the e-mail of the following custodians for YPF-related communications: (1) Federico Bernal; (2) Eduardo Rodríguez Chirillo; (3) Dario Martinez; (4) Flavia Royon; (5) José Rolandi; (6) Luis Francisco de Ridder; and (7) Maggie Luz Videal Oporto.

Custodial ESI: The Republic has refused to collect and produce relevant documents that are not contained in government-maintained e-mail accounts, including government-related communications transmitted through personal e-mail accounts or messaging applications (such as WhatsApp, Slack, or Gmail). Merits discovery demonstrated that Argentine government officials communicate extensively through non-government e-mail accounts in their official capacities.¹

¹ See, e.g., Dkt. No. 364-81 (an English certified translation of the Feb. 21, 2012 Email from W. Kunz, Legal Advisor to the Secretary of Energy, to R. Baratta, Deputy Secretary of Coordination and Management Control of the Ministry of Federal Planning, and D. Cameron, Secretary of Energy); Harris Decl. Ex. B, AR00040069 (e-mail including the Gmail account of Cynthia de Paz, National Director of Sectoral Studies); Harris Decl. Ex. C, AR00071827 (e-mail including the Gmail account of Sergio Ferrero, Deputy Director General of Administration in the Ministry of Federal Planning); Harris Decl. Ex. D, AR00067027 (e-mail including the Gmail account of Axel Kicillof); Harris Decl. Ex. E, AR00067034 (e-mail including the Gmail account of Emmanuel

There is, therefore, no basis to limit custodial collections to government-maintained e-mail accounts.

Although the Republic has indicated there are “legal reasons” why it cannot collect relevant communications sent through non-government accounts, it has not substantiated that position, notwithstanding that Plaintiffs indicated they would seek these communications as early as August 1. “[A] party raising foreign law as a basis for objecting to discovery faces the burden of demonstrating that the foreign law actually prohibits producing the requested information.” *NML Cap., Ltd. v. Republic of Argentina*, 2013 WL 491522, at *3 (S.D.N.Y. Feb. 8, 2013); *see also Laydon v. Mizuho Bank, Ltd.*, 183 F. Supp. 3d 409, 425 (S.D.N.Y. 2016); *In re Vivendi Universal, S.A. Sec. Litig.*, 2006 WL 3378115, at *4 (S.D.N.Y. Nov. 16, 2006). The Republic is of course obligated to produce any documents in its possession, custody, or control, including communications it has the “practical ability to obtain[.]” *Royal Park Invs. SA/NV v. Deutsche Bank Nat’l Tr. Co.*, 2016 WL 5408171, at *5 (S.D.N.Y. Sept. 27, 2016); *see also Chevron Corp. v. Salazar*, 275 F.R.D. 437, 448 (S.D.N.Y. 2011), *objections overruled*, 2011 WL 13243797 (S.D.N.Y. Aug. 16, 2011) (collecting cases) (“Courts have repeatedly found that employers have control over their employees and can be required to produce documents in their employees’ possession.”). The Republic is obligated to produce all relevant communications, not only materials it identifies in government accounts.

Search Terms: The Republic also objects to the application of search terms to custodial e-mail communications, instead offering to review *only* external communications that the Republic’s custodians have with employees of YPF or BCRA. Although those communications are obviously necessary, they are not sufficient. Internal discussions concerning YPF and BCRA are also essential to establishing the Republic’s control over these entities. Accordingly, Plaintiffs propose search terms intended to identify relevant communications, not simply communications with YPF and BCRA employees.

Custodians: Plaintiffs have requested search-term responsive emails for 12 additional custodians.² The Republic does not agree to collect the ESI of these custodians. The relevance of each additional custodian is set forth below:

1. Mariela Beliansky (for YPF-related search terms): As the Undersecretary for Energy Planning since December 2023 (now known as the Undersecretary for Transition and Energy Planning), Ms. Beliansky is likely to have information regarding the Republic’s control over YPF’s oil pricing and supply policies, as well as YPF’s petroleum export and import policies.
2. Luis Caputo (for BCRA and YPF-related search terms): As the Minister of Economy since December 2023, Mr. Caputo is responsible for setting and implementing national economic

Alvarez Agis, Deputy Minister of Economy); Harris Decl. Ex. F, AR00067090 (e-mail including the Yahoo account of Alejandro Vanoli, President of the National Securities Commission, emailing the personal Gmail account of President Cristina Fernández de Kirchner’s secretary).

² Plaintiffs substituted four custodians that the Republic had previously proposed with these additional custodians. To the extent the Court determines that any custodian should not be searched, Plaintiffs will agree to the Republic’s original proposal, which also included Nicolás Posse, Agustín Rossi, Juan Manzur, and Pablo Quirno Magrane.

policies, including international debt management. As a result, Mr. Caputo is likely to have information about the Republic's control of BCRA, including any instructions given by the Ministry of Economy to BCRA to implement economic policies. Mr. Caputo is also responsible for managing the Republic's interests in YPF and he is likely to have information regarding the Republic's control over YPF's investment decisions, including its recent decision to relocate the site of an LNG Project,³ as well as YPF's decision to forgive the Republic's debts.⁴

3. Santiago Caputo (for BCRA and YPF-related search terms): As a political and communication strategist, acknowledged by President Milei as his closest advisor,⁵ Mr. Caputo is likely to have information regarding both President Milei's promise to eliminate BCRA, as well as YPF's investment decisions, including its recent decision to relocate the site of an LNG Project.⁶ Additionally, according to public reports, Mr. Caputo manages YPF's advertising budget through Guillermo Garat, his former partner at the consulting firm Move Group and current Corporate Affairs, Communication and YPF Marketing Vice President.⁷

³ María José Lucasole, *Axel Kicillof blamed Milei for YPF's decision to choose Río Negro and not Buenos Aires for the LNG plant*, La Nacion (July 31, 2024), available at <https://www.lanacion.com.ar/politica/axel-kicillof-responsabilizo-a-milei-de-la-decision-de-ypf-de-hacer-una-planta-de-gnl-en-rio-negro-nid31072024/>.

⁴ Sofia Diamante, *YPF Luz's nod to its largest shareholder: it validated Caputo's controversial proposal and already received payment*, La Nacion (May 15, 2023), available at <https://www.lanacion.com.ar/economia/guino-de-ypf-a-su-gran-accionista-convalido-la-polemica-propuesta-de-caputo-y-ya-cobro-nid15052024/>.

⁵ Hugo Alconada Mon, *Santiago Caputo, the consultant who crossed the line and became Javier Milei's "black monk"*, La Nacion (Aug. 23, 2024), available at <https://www.lanacion.com.ar/politica/santiago-caputo-el-consultor-que-cruzo-la-linea-y-se-convirtio-en-el-monje-negro-de-javier-milei-nid04082024/> (reporting on Mr. Milei's declaration that "Santiago Caputo, my sister, and I form the iron triangle."); Hugo Alconada Mon, *Santiago Caputo, the consultant who crossed the line and became Javier Milei's "black monk,"* La Nacion (August 4, 2024), available at <https://www.lanacion.com.ar/politica/santiago-caputo-el-consultor-que-cruzo-la-linea-y-se-convirtio-en-el-monje-negro-de-javier-milei-nid04082024/> (explaining that "Milei trusts [Santiago Caputo] unequivocally, in a role that since December 2023 exceeds that of an advisor. The signs are there. Caputo spends up to 17 hours a day inside the Casa Rosada. And when he's not there, he may be in Congress with the current Chief of Staff, Guillermo Francos, unlocking some government initiative. Or with Eduardo 'Lule' Menem sealing agreements in the districts for 2025.").

⁶ María José Lucasole, *Axel Kicillof blamed Milei for YPF's decision to choose Río Negro and not Buenos Aires for the LNG plant*, La Nacion (July 31, 2024), available at <https://www.lanacion.com.ar/politica/axel-kicillof-responsabilizo-a-milei-de-la-decision-de-ypf-de-hacer-una-planta-de-gnl-en-rio-negro-nid31072024/>.

⁷ *Santiago Caputo's partner, who manages YPF's advertising spent 10 billion in Milei's first three months*, La Politica Online (June 8, 2024), available at <https://www.lapoliticaonline.com/politica/la-pauta-de-ypf-se-disparo-mas-de-1000-y-expone-una-secretaria-de-medios-paralela/>.

4. Ricardo Blas Casal (for BCRA-related search terms): As a Legal and Administrative Secretary from August 2022 through December 2023, Mr. Casal led the design and implementation of administrative, budgetary, and financial policies, and oversaw the coordination of legal support activities within the Ministry of Economy's legal service. As a result, Mr. Casal is likely to have information regarding the Republic's implementation of such policies at BCRA.
5. Sergio Massa (for BCRA and YPF-related search terms): As Minister of Economy from August 2022 through December 2023, Massa was responsible for implementing national economic policy, including that affecting the operations of both BCRA and YPF. Specific to YPF, Mr. Massa is likely to have communications regarding use of YPF's advertising budget for political purposes and oil price manipulation.⁸
6. José Ignacio de Mendiguren (for YPF-related search terms): as Minister of Industry and Productive Development from August 2022 through December 2023, Mr. Mendiguren was part of Sergio Massa's economic team and simultaneously served as a YPF Director until 2023. Mr. Mendiguren is likely to have information regarding instructions from the Minister of Economy to YPF regarding oil and gas pricing and the use of YPF advertising funds for political purposes.
7. Guillermo Michel (for BCRA and YPF-related search terms): As the General Director of Customs from July 2022 to December 2023, Mr. Michel was directly involved in trade and economic policy decisions affecting both BCRA and YPF. In August 2023, Minister Massa appointed Mr. Michel to lead the Price Agreements Negotiation Unit, which set the price of gasoline and other products.⁹
8. Eduardo (Wado) de Pedro (for YPF-related search terms): As Minister of the Interior from December 2019 through December 2023, Mr. de Pedro was in charge of domestic policy and relations with the Provinces. In this role, Mr. de Pedro is likely to have information about the Republic's involvement in YPF's oil and gas pricing, as well as in-country development

⁸ Luciana Glezer, *YPF Intervened to Lower the Price of a Barrel of Creole Wine as a Contribution to the Escalation of Prices*, La Política Online (May 10, 2023), available at <https://www.lapoliticaonline.com/energia/ypf-intervino-para-bajar-el-precio-del-barril-criollo-como-aporte-ante-la-escalada-inflacionaria/> (explaining that YPF offered prices below the market rate to counteract inflation "in line with the objectives that are taught from the Ministry of Finance.").

⁹ Francisco Play, *The government is toughening and adding more pressure to contain the impact of the devaluation*, La Nación (August 17, 2023), available at <https://www.lanacion.com.ar/economia/el-gobierno-creo-una-unidad-especial-para-tratar-de-frenar-el-traslado-a-precios-de-la-devaluacion-nid17082023/> (explaining that "[t]he general coordinator of the Unit will be Guillermo Michel, Head of Customs and Sergio Massa's most trusted man."); *Sergio Massa announced the fuel freeze*, Página 12 (October 31, 2023), available at <https://www.pagina12.com.ar/579943-sergio-massa-anuncio-el-congelamiento-de-combustible#:~:text=El%20ministro%20de%20Econom%C3%ADa%2C%20Sergio,esta%20medianoche%20se%20sumar%C3%A1%20YPF> (explaining that the Minister of Economy announced a freeze on fuels that resulted from an agreement between several parties, including Customs.).

projects. In addition, Mr. de Pedro is one of the leaders of La Campora, a Kirchnerist media organization known to have used the YPF advertising budget for political purposes.

9. Gabriel Rubinstein (for BCRA-related search terms): As Secretary of Economic Policy from August 2022 through December 2023, Mr. Rubinstein was responsible for the formulation and implementation of economic policies. Moreover, Mr. Rubinstein also served as Deputy Minister of Economy, in which he is likely to have information about the Republic's directives to BCRA.
10. Rita Haydee Tanuz (for BCRA-related search terms): As Legal and Administrative Secretary from December 2020 through July 2022, Ms. Tanuz led the design and implementation of administrative, budgetary, and financial policies, and oversaw the coordination of legal support activities within the Ministry of Economy's legal service. Ms. Tanuz may have information regarding instructions from the Minister of Economy to BCRA regarding such policies, which shape BCRA's daily operations.
11. Matias Tombolini (for YPF-related search terms): As Secretary of Commerce from August 2022 through December 2023, Mr. Tombolini played a vital role in the government's oversight of natural gas and oil products, including pricing, sales volumes, and sales counterparties.
12. Julio Vitobello (for YPF-related search terms): As Secretary General of the Presidency from December 2019 through December 2023, Mr. Vitobello coordinated the Republic's use of YPF aircraft for government purposes. Accordingly, Mr. Vitobello may have communications regarding this aircraft use and other government use of YPF assets.

Respectfully,
/s/ Randy M. Mastro
Randy M. Mastro